

PROPERTY TAX APPEAL BOARD'S DECISION

APPELLANT: Matt DeVita  
DOCKET NO.: 05-25871.001-C-1 thru 05-25871.003-C-1  
PARCEL NO.: 13-08-409-008-0000 thru 13-08-409-010-0000

The parties of record before the Property Tax Appeal Board are Matt DeVita, the appellant, by attorney M. Whitley of Marino & Associates, PC of Chicago and the Cook County Board of Review.

The subject property consists of a one story, 45 year old, 3,800 square foot restaurant located on a 10,216 square foot site in Jefferson Township, Cook County.

The appellant, through counsel, submitted documentation to demonstrate that the subject property was improperly assessed. This evidence was timely filed by the appellant pursuant to the Official Rules of the PTAB. In support of the request for relief due to the subject's income, the appellant submitted one year of income and estimated expenses for the subject property resulting in a capitalization of the net operating income. The income and expense analysis was prepared by the law firm of Marino and Associates who claim to be certified to perform income and expense analyses. In addition, the appellant submitted a comparison of the subject's 2005 tax bill of \$17,133 to three other suggested tax bills of similar properties ranging from \$6,018.70 to \$8,989.31. The comparables are located within a block of the subject and range in age from 37 to 51 years. The comparables are also 5-17 properties and are located on lots of 3,000 square feet. The appellant also disclosed the subject was purchased in July of 2004 for \$1,750,000. The appellant paid a high price because the tenant planned to remain at the site. The appellant obtained an appraisal for the 2006 reassessment resulting in a market value of \$250,000 for the restaurant and explaining the high purchase price. The appraisal was not entered into evidence. Based on this evidence, the appellant requested a reduction in the subject's assessment.

(Continued on Next Page)

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change in the assessment of the property as established by the COOK County Board of Review is warranted. The correct assessed valuation of the property is:

DOCKET NO.	PROPERTY NO.	LAND	IMPR.	TOTAL
05-25871.001-C-1	13-08-409-008	\$14,272	\$ 1,619	\$15,891
05-25871.002-C-1	13-08-409-009	\$10,157	\$37,257	\$47,414
05-25871.003-C-1	13-08-409-010	\$10,157	\$37,257	\$47,414

Subject only to the State multiplier as applicable.

PTAB/TMcG.

The board of review submitted "Board of Review-Notes on Appeal" that disclosed the subject's total assessment of \$110,718 which translates into a market value of \$291,365 or \$76.68 per square foot. The board submitted evidence in support of its assessed valuation of the subject property. The board's evidence consists of the sales of five one-story, retail stores and restaurants ranging in size from 3,323 to 5,000 square feet. The sales ranged from \$285,000 to \$475,000 or from \$85.23 to \$119.62 per square foot. The board's evidence consists of raw data prior to adjustments for market conditions, location, size, land to building ratio, zoning and other related factors. Based on this evidence the board requested confirmation of the subject's present assessment.

After hearing the testimony and considering the evidence, the PTAB finds that it has jurisdiction over the parties and the subject matter of this appeal.

When overvaluation is claimed the appellant has the burden of proving the value of the property by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3<sup>rd</sup> Dist. 2002); Winnebago County Board of Review v. Property Tax Appeal Board, 313 Ill.App.3d 179, 728 N.E.2d 1256 (2<sup>nd</sup> Dist. 2000). Proof of market value may consist of an appraisal, a recent arm's length sale of the subject property, recent sales of comparable properties, or recent construction costs of the subject property. Section 1910.65 *The Official Rules of the Property Tax Appeal Board* (86 Ill.Adm.Code §1910.65(c)).

The PTAB finds the appellant's argument that the subject's assessment is excessive when applying an income approach based on the subject's lost income due to total vacancy unconvincing and not supported by evidence in the record. In Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970), the court stated:

[I]t is the value of the "tract or lot of real property" which is assessed, rather than the value of the interest presently held. . . [R]ental income may of course be a relevant factor. However, it cannot be the controlling factor, particularly where it is admittedly misleading as to the fair cash value of the property involved. . . [E]arning capacity is properly regarded as the most significant element in arriving at "fair cash value".

Many factors may prevent a property owner from realizing an income from property, which accurately reflects its true earning capacity; but it is the capacity for earning income, rather than the income

actually derived, which reflects "fair cash value" for taxation purposes. Springfield Marine Bank v. Property Tax Appeal Board 44 Ill.2d 428 at 431

Actual expenses and income can be useful when shown that they are reflective of the market. The appellant did not demonstrate that the subject's lost income was reflective of the market. To demonstrate or estimate the subject's market value using an income approach, as the appellant attempted, one must establish through the use of market data the market rent, vacancy and collection losses, and expenses to arrive at a net operating income. Further, the appellant must establish through the use of market data a capitalization rate to convert the net income into an estimate of market value. The appellant failed to follow this procedure in developing the income approach to value; therefore, the Property Tax Appeal Board gives this argument no weight.

The PTAB finds the appellant's equity argument of comparing tax dollars is without weight because of the variables applied to individual tax assessments such as Cook County tax rates that number in the thousands. The variables can both decrease or increase tax dollars on a specific property.

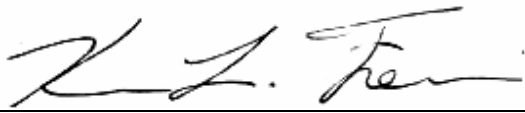
The PTAB finds the board's retail sales evidence carries little weight because it lacks an analysis resulting in conclusion of value by a certified analysis.

The Property Tax Appeal Board finds the appellant has failed to demonstrate by a preponderance of the evidence that the subject property is overvalued. Therefore, the Property Tax Appeal Board finds that no reduction in the subject's assessment is warranted.


This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.



Chairman



Member



Member



Member



Member

DISSENTING: \_\_\_\_\_

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: January 25, 2008



Clerk of the Property Tax Appeal Board

**IMPORTANT NOTICE**

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing

complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.